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SIPDIS

SENSITIVE

SIPDIS

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SUBJECT: KUWAIT'S 2008 TIP REPORT SUBMISSION

REF: STATE 2731

¶1. (U) Embassy Kuwait's submission for the 2008 Trafficking in Persons (TIP) Report follows. Responses are keyed to paragraphs 27-30 of reftel.

OVERVIEW:

¶2. (SBU) Please find below responses to questions in paragraph 27 of reftel:

¶A. Kuwait is a destination country for internationally trafficked men and women. No reliable numbers were available for the numbers of victims. There is trafficking in persons into the country as well as some within the country's borders. There is no trafficking in areas outside Government of Kuwait (GOK) control. Many of Kuwait's expatriate workers complain of violations of their rights as workers, though most of these cases do not meet the definition of trafficking in persons. Neither the GOK nor any of the source-country embassies distinguish between simple labor violations and those of trafficking, making it unclear as to the real number of trafficking victims.

The GOK keeps reliable records on the number of foreign workers in country. Source countries, to a lesser degree of reliability, also track expatriate laboreres. Post has requested these numbers during numerous meetings with GOK interlocutors at the relevant ministries as well as submitting a request through the Ministry of Foreign Affairs (MFA) but, to date, has not received any statistical data.

Adult female domestic workers make up the group most at risk of being trafficked. Men and women working in low-skilled sectors such as janitorial services are also victims of various forms of exploitation. There does not seem to be a specific bias against any one nationality or ethnicity; however, poorly educated migrants tend to be the most vulnerable.

¶B. Trafficking in persons remains a problematic issue in Kuwait. Source country embassies and NGOs do not report major changes in governmental efforts to combat trafficking as compared to the previous year.

In the past year, the GOK took three major steps to improve the trafficking situation: it opened a temporary shelter for domestic workers, passed a ministerial decree that forbids sponsors from withholding employees' passports and drafted anti-trafficking legislation. Labor trafficking is much more common than sex trafficking. Workers face a number of problems that potentially make them susceptible to becoming victims of human trafficking. The most common problems are non-payment of salaries and withholding of passports. Some

domestic workers face the additional problems of restriction of movement, unsuitable living conditions and abuse.

Since the drafting of the last TIP report, an area of notable improvement is that of public awareness through the media. Kuwait's press, one of the most open in the Middle East, reported widely on the USG report as well as on the plight of trafficking victims. On a daily basis, stories of abuses of domestic workers appeared in the newspapers. While this new awareness has not prompted GOK action at the desired level, it has raised the profile of the issue. For example, in the fall of 2007, imams began addressing trafficking in Friday sermons, calling for Muslims to treat third-country workers in Islamic fashion with respect and dignity, and shaming trafficking violators.

Another problem is "visa trading" or "residence permit trading," in which sponsors profit by selling their sponsorship to workers. In many cases, workers pay very high fees to recruiters (sometimes in Kuwait but often in source countries) for the right to procure a job in Kuwait. Some of these workers arrive in the country to find that the job they were promised does not exist while others are aware that no job exists but come in the hopes of finding one after they arrive.

There are reports of people promising runaway domestic workers well-paid service industry jobs and non-domestic work visas, then coercing the workers into prostitution (NOTE: Domestic workers receive Article 20 visas. These visas are restrictive and fall under the jurisdiction of the Ministry of Interior (MOI). All other foreign private sector workers are given Article 18 visas which fall under the jurisdiction of the Ministry of Social Affairs and Labor (MOSAL). END

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NOTE). The GOK asserts that cases of actual coercion are rare, and that most of the women apprehended for prostitution made conscious choices to work as prostitutes. The number of cases that involve coercion is unknown.

Domestic labor recruitment offices, small businessmen and individuals are the most common traffickers. Some government officials enable sponsors to procure permission to sponsor foreign workers, though there is no evidence to suggest that there is widespread government complicity in the kinds of visa and residence-permit trading described above.

¶C. The Ministries of Social Affairs & Labor, Awqaf (Religious Endowments) & Islamic Affairs, Interior and Justice are all involved in anti-trafficking efforts. MOI monitors the concerns related to domestic workers and MOSAL is the relevant ministry for all other foreign workers. It is unclear which ministry has the lead on TIP and there appears to be little, if any, coordination between the various ministries.

¶D. The GOK does not lack the financial resources to combat TIP or to its aid victims. To date, the GOK has shown little political will to address TIP as a problem. Instead, since most trafficking problems involve domestic workers in private homes, the GOK has been reluctant to investigate and prosecute Kuwaiti citizens.

Kuwaiti officials argue that the expatriate labor community's size (approximately 67% of the population), diversity (over 100 nationalities) and low education profile make combating TIP difficult.

Enacting new legislation is an arduous and lengthy process. Corruption continues to be a problem (NOTE: Kuwait's ranking on Transparency International's annual Corruption Perceptions Index fell from 45 in 2006 to 60 in 2007. END NOTE). There are credible allegations that work visas (Article 18) are illegally sold to brokers. Workers who enter the country via such schemes are especially vulnerable to exploitation.

IE. The GOK does not systematically monitor its anti-trafficking efforts and does not make available its assessments of these efforts. However, it does publish regular statistics on the enforcement of various labor laws and regulations through the Office of Labor Affairs at MOSAL.

INVESTIGATION AND PROSECUTION OF TRAFFICKERS:

I3. (SBU) Please find below responses to questions in paragraph 28 of reftel:

IA. The GOK does not have a law specifically prohibiting trafficking in persons. The GOK has drafted legislation but that legislation has not been presented to the Parliament for consideration.

There are several laws that address TIP-related crimes such as:

-- Kuwait criminal law criminalizes kidnapping, detention and slave trading, with penalties as severe as life imprisonment.

-- Article 31 of Kuwait's constitution protects against restriction of movement, torture, or "degrading" treatment.

-- Law 16/1960 criminalizes forced labor or exploitation as well as maltreatment of all kinds of individuals. If the maltreatment amounts to torture and leads to death, it is considered first degree murder. In addition, sexual crimes can lead to execution and incitement of (sexual) immorality can result in up to seven years' imprisonment.

-- MOSAL decree 152/2004 forbids underage employment in dangerous industries.

-- Ministerial decree 152/2004 forbids the use of camel jockeys younger than 18 years.

-- Ministerial decree 152/2007 forbids sponsors/employers from withholding passports

IB. Since there is no anti-trafficking legislation, there are no prescribed penalties for trafficking crimes.

IC. Law 16/1960 criminalizes forced labor and exploitation, and penalties range from up to seven years' imprisonment (for incitement of sexual immorality) to death in cases of sexual crimes and murder. A Ministerial Decree was issued in July 2007 (152/2007) forbidding the withholding of workers' passports. To date, this law has not been enforced. Source country embassies report that over 90 percent of the domestic

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workers that come to the embassies for assistance do not have their passports with them.

ID. The maximum penalty for rape is death. There is no legislation that prescribes penalties for crimes of trafficking for commercial sexual exploitation.

IE. Prostitution is illegal, as are the activities of pimps, clients, brothel owners and those who facilitate or encourage prostitution. Penalties include prison sentences for up to seven years depending on the level of involvement and the age of the sex workers. In 2007, police regularly conducted raids on brothels and arrested prostitutes, pimps and clients. Despite numerous requests for data, none was received; therefore Post is unaware of successful prosecutions filed against these individuals.

IF. Due to the lack of an anti-trafficking law, the GOK does not keep track of statistics related to trafficking.

The GOK does not criminally prosecute employers or labor agents who confiscate workers' passports or switch contracts or terms of employment without the worker's consent. There have been cases filed against employers for physical or

sexual abuse against workers; however, reports on those cases have not been released to the public.

I.G. The GOK did not provide any specialized training for government officials related to TIP. One of the commitments by the GOK in 2007 that elevated Kuwait's status from Tier 3 to Tier 2 Watchlist was to provide TIP-related training to law enforcement officials, prosecutors and judges. In February, PolOff presented a training course proposal offered by the International Office for Migration (IOM) to MOI officials. The MOI and IOM are in talks to host the training at the Kuwaiti police training academy, but there has been no concrete progress on this issue.

There were no NGO, International Organization or USG training programs provided to GOK officials.

I.H. The GOK does not cooperate with other governments in the investigation and prosecution of trafficking cases.

I.I. The GOK will extradite its citizens if a reciprocal extradition treaty exists, however, in practice, very few Kuwaiti citizens have ever been extradited for committing any crimes outside of Kuwait. Post is unaware of any extraditions for TIP-related crimes.

I.J. There is no evidence of GOK involvement in or tolerance of trafficking on a local or institutional level. However, some government officials reportedly make it easy for citizens or foreigners to import workers in exchange for political loyalty or occasionally bribes. The workers brought in are generally slated for the private sector and are less likely to be trafficked than domestic workers. When trafficking occurs, it is perpetrated by the recipients of the government permits, rather than by the government agents themselves. The GOK involvement is therefore extremely indirect.

I.K. Post is unaware of any government officials involved in trafficking.

I.L. Kuwait does not contribute troops to any international peacekeeping efforts.

I.M. Kuwait does not have identified child sex tourism.

PROTECTION AND ASSISTANCE TO VICTIMS:

I.3. (SBU) Please find below responses to questions in paragraph 29 of reftel:

I.A. The GOK does not assist victims by providing any type of residency status or relief from deportation.

I.B. The GOK established a temporary domestic workers shelter in September 2007. The shelter has a maximum capacity of 40 women and provides medical, psychological and legal services. One of the commitments by the GOK that elevated Kuwait from Tier 3 to Tier 2 Watchlist status was to establish a permanent shelter that could house up to 700 men and women. Bids for a facility have been open since December 2007; however, a suitable site has not been identified.

Post has requested but has not received statistics on the

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women that have stayed in the shelter since its opening. The amount of GOK funding for the shelter is unknown.

The women who are at the shelter are sent from the shelters of the various source country embassies' shelters. The embassies are allowed to send up to ten women at a time, however, all ten women must have left the shelter before that embassy can send additional women. One source country

embassy informed Poloff that it no longer sends women to the shelter because the shelter will send women back to the embassy if they have cases they want to file against their employer. This was confirmed by another source country embassy who told PolOff that they were specifically instructed to only send women with "simple" cases.

I.C. The GOK does not provide funding or other forms of support to domestic NGOs or international organizations to provide services for trafficking victims.

I.D. The GOK does not have a formal system of proactively identifying victims of trafficking among high-risk persons with whom they come in contact.

I.E. Kuwait does not have legalized prostitution.

I.F. At the law enforcement level, victims' rights are usually not respected. According to source country embassies, the treatment of victims varies from police station to police station, but for the most part the women are treated poorly. There were numerous reports in the press during the reporting period about domestic workers attempting to commit suicide and subsequently being arrested (attempting to commit suicide is illegal in Kuwait). At the judicial level, victims are generally treated fairly; however, the slowness of the court system works against the victims who must remain in-country for the duration of the process for criminal cases.

Under Kuwait law, sponsors/employers can file absconding cases against domestic workers (or absentee cases against non-domestic workers) to counter any claims filed by the victim. However, according to the law, absconding and/or absentee cases are invalid if the reason for the worker running away was violation of his/her rights. In practice, sponsors/employers are sometimes successful in filing their cases and having the victims deported. Deportation of victims is the norm for non-violent crimes; prosecution and fines are rare.

I.G. The GOK does not encourage or discourage victims from assisting in investigations. Victims can and do file suits against those who violate their legal rights. These cases are often settled out of court, though there have been cases of the courts ruling in favor of victims and awarding compensation. Post has no statistics on the number of victims who assisted in investigations or prosecutions. Post also does not have, despite numerous requests to the GOK, the number of prosecutions. Increasing prosecutions against perpetrators of trafficking related crimes was also a commitment the GOK made in order to increase its ranking from Tier 3 to Tier 2 Watchlist.

Although there is no concerted effort to impede victims' access to legal redress, language and knowledge barriers present difficult obstacles to hurdle for the victims.

Victims are not allowed to leave the country pending criminal trial proceedings. In practice, it is difficult for workers to file suits against their employer due to the slowness of the court and the victims' inability to leave the country. In most cases, the victims are not permitted to obtain other work while awaiting the outcome of the cases due to the fact that their employer is likely to also be their sponsor. Workers cannot move between certain categories of employment and most cannot switch employers during the first 6 - 12 months of arrival in Kuwait.

I.H. The GOK does not provide any particular protection for witnesses.

See 29B regarding GOK shelter for domestic workers shelter. The de facto system of shelter in Kuwait is through source country embassies who provide assistance. In meetings with different source country embassies, PolOff learned that three source country embassy shelters alone house approximately 600 women. The GOK does not interfere in the embassies' work.

II. The GOK did not provide any specialized training for government officials to identify trafficking victims. The GOK did not pay for the repatriation of victims.

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IK. There are no NGOs or IOs that work with trafficking victims in Kuwait. The United Nations Development Program and the International Organization for Migration operate in Kuwait and follow trafficking issues closely. They frequently press the GOK to make improvements and work to influence public policy rather than helping individual victims.

The GOK has adequate financial and other resources to address the problem but lacks the political will.

PREVENTION:

14. (SBU) Please find below responses to questions in paragraph 30 of reftel:

IA. The GOK recognizes that labor exploitation occurs, but the prevalence of foreign workers in the private sector and domestic labor market overwhelms official enforcement measures. The GOK defines trafficking more narrowly than the USG; it considers trafficking to be a systemic phenomenon, whereas it views the situation in Kuwait as consisting of isolated individual cases of workers whose rights were abused. The GOK acknowledges that some workers face difficulties but it questions whether that constitutes a systemic problem and points to the fact that the vast majority of foreign workers come to Kuwait and remain voluntarily in order to take advantage of higher wages and better work conditions than may be available in their home countries. The general view held by GOK officials is that a few publicized extreme cases of worker abuse have maligned the entire system.

IB. There were no GOK-run awareness campaigns during the reporting period.

IC. Outside of USG initiative in investigating and reporting on TIP, there is little attention paid to trafficking. Source country embassies play a key role in addressing the issues of individual victims, but the role of facilitating communications and linking IOM, UNDP and other to the GOK is left to the USG.

ID. The GOK does not specifically monitor immigration and emigration patterns for evidence of trafficking. The GOK does not screen for potential trafficking victims along its borders but affirms that all domestic workers are met at the airport by the agency that recruited them to prevent the workers from being picked up by potential traffickers.

IE. The GOK does not have a mechanism for coordination or communication between various agencies on trafficking-related matters. The GOK does not have a single point of contact for trafficking-related matters or a task force on public corruption.

The government previously had a committee to review and respond to human rights reports; however, this committee was dissolved and a new committee is being formed in its place that will not only review and respond to human rights issues but take actions to combat any violations. The committee will be headed by the Minister of Justice and include members from various ministries.

IF. The GOK does not have a national plan of action to address TIP.

IG. The GOK has taken no discernable measures to reduce the

demand for commercial sex acts.

IH. N/A

II. N/A

TIP POC KUWAIT

I5. (SBU) The point of contact at Embassy Kuwait for TIP related issues is Dew Tiantawach who is an FS-04. Time spent on the preparation of the cable: approximately 40 hours, including meetings, research and drafting.

Telephone: 965 259-1457

Fax: 965 259-1051

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